

ESTTA Tracking number: **ESTTA719643**

Filing date: **01/11/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Jack Daniel's Properties, Inc.
Granted to Date of previous extension	01/10/2016
Address	4040 Civic Center Drive, Suite 528 San Rafael, CA 94903 UNITED STATES
Attorney information	Christopher C. Larkin Seyfarth Shaw LLP 2029 Century Park East, Suite 3500 Los Angeles, CA 90067-3021 UNITED STATES clarkin@seyfarth.com, kelko@seyfarth.com Phone:(310) 277-7200

Applicant Information

Application No	86560824	Publication date	07/14/2015
Opposition Filing Date	01/11/2016	Opposition Period Ends	01/10/2016
Applicant	Vintage Wine Estates, Inc. 205 Concourse Blvd Santa Rosa, CA 95403 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Wine; hard cider

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	1923981	Application Date	09/19/1994
Registration Date	10/03/1995	Foreign Priority Date	NONE
Word Mark	JACK DANIEL'S		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 033. First use: First Use: 1875/00/00 First Use In Commerce: 1875/00/00 whiskey		
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U.S. Registration No.	1538377	Application Date	09/23/1988
Registration Date	05/09/1989	Foreign Priority Date	NONE
Word Mark	GENTLEMAN JACK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1988/01/28 First Use In Commerce: 1988/01/28 WHISKY		

U.S. Registration No.	2815221	Application Date	04/07/1998
Registration Date	02/17/2004	Foreign Priority Date	NONE
Word Mark	JACK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1998/12/31 First Use In Commerce: 1998/12/31 alcoholic beverages, namely whiskey		

U.S. Registration No.	3259938	Application Date	03/28/2003
Registration Date	07/10/2007	Foreign Priority Date	NONE
Word Mark	BLACK JACK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2004/04/19 First Use In Commerce: 2004/04/19 Alcoholic beverages, namely, pre-mixed alcoholic cocktails		

U.S. Registration No.	4404637	Application Date	09/13/2012
Registration Date	09/17/2013	Foreign Priority Date	NONE
Word Mark	WINTER JACK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2012/10/31 First Use In Commerce: 2012/10/31 Alcoholic beverages, namely, pre-mixed alcoholic cocktails		

Attachments	85728354#TMSN.png(bytes) Notice of Opposition.pdf(347460 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Christopher C. Larkin/
Name	Christopher C. Larkin
Date	01/11/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 86/560,824
Published in the Official Gazette of July 14, 2015

JACK DANIEL’S PROPERTIES, INC.,

Opposer,

v.

VINTAGE WINE ESTATES, INC.,

Applicant.

Opposition No.: _____

NOTICE OF OPPOSITION

Opposer Jack Daniel’s Properties, Inc. (“Opposer”) believes that it will be damaged by registration of the mark shown in Application Serial No. 86/560,824 and hereby opposes the same. As grounds for opposition, Opposer alleges as follows:

1. Opposer is a Delaware corporation with offices in San Rafael, California.
2. Upon information and belief, applicant Vintage Wine Estates, Inc. (“Applicant”) is a California corporation with an address of record in Santa Rosa, California.
3. On March 11, 2015, Applicant filed Application Serial No. 86/560,824 (the “Opposed Application”) to register the claimed mark NASTY JACK on the Principal Register for goods identified as “Wine; hard cider,” on the basis of Applicant’s alleged intention to use the mark in commerce.
4. From a time long prior to the filing date of the Opposed Application, or any earlier date of actual use of the mark shown in the Opposed Application upon which Applicant can rely, and continuously to the present, Opposer and its predecessors-in-interest have used the world-famous mark JACK DANIEL’S in connection with whiskey, prepared alcoholic cocktails,

liqueurs, and other goods and services. From a time prior to the filing date of the Opposed Application, or any earlier date of actual use of the mark shown in the Opposed Application upon which Applicant can rely, and continuously to the present, Opposer and its predecessors-in-interests have also used a variety of JACK-formative marks in connection with distilled spirits, prepared alcoholic cocktails, and liqueurs, including, among others, JACK, GENTLEMAN JACK, BLACK JACK, and WINTER JACK.

5. Opposer owns United States Trademark Registration No. 1,923,981 for JACK DANIEL'S for whiskey, United States Trademark Registration No. 1,538,377 for GENTLEMAN JACK for whisky, United States Trademark Registration No. 2,815,221 for JACK for alcoholic beverages, namely, whiskey, United States Trademark Registration No. 3,259,938 for BLACK JACK for alcoholic beverages, namely, pre-mixed alcoholic cocktails, and United States Trademark Registration No. 4,404,637 for WINTER JACK for alcoholic beverages, namely, pre-mixed alcoholic cocktails. These registrations are valid and subsisting, and all but Registration No. 4,404,637 are incontestable. Copies of pages from the TSDR electronic database of the Patent and Trademark Office showing the current status and title of all of these registrations are attached hereto as Exhibit 1.

6. The goods identified in the Opposed Application are alcoholic beverages that are closely related to, and are sold in the same channels of trade and to the same classes of customers as, the goods identified in Opposer's pleaded registrations. Purchasers of the goods identified in the Opposed Application sold under the mark NASTY JACK are likely to believe that they originate with, or are licensed, authorized, or sponsored by, Opposer.

FIRST CLAIM FOR RELIEF
(Likelihood of Confusion With Registered Trademarks)

7. Opposer repeats and realleges the allegations in preceding paragraphs 1-6 as if fully set forth herein.

8. The mark shown in the Opposed Application so resembles Opposer's registered trademarks as to be likely, when used on or in connection with the goods identified in the Opposed Application, to cause confusion, to cause mistake, or to deceive, and Applicant's mark is thus unregistrable under § 2(d) of the United States Trademark Act, 15 U.S.C. § 1052(d).

9. Opposer will be damaged by registration of the mark shown in the Opposed Application because such registration will give Applicant prima facie evidence of ownership of and the exclusive right to use a mark that is confusingly similar to Opposer's registered marks, in derogation of Opposer's rights in its registered marks.

SECOND CLAIM FOR RELIEF
(Likelihood of Confusion with Previously-Used Trademarks)

10. Opposer repeats and realleges the allegations in preceding paragraphs 1-6 as if fully set forth herein.

11. The mark shown in the Opposed Application so resembles the JACK DANIEL'S and various JACK-formative marks previously used by Opposer and its predecessors-in-interest in the United States, and not abandoned, as to be likely, when used on or in connection with the goods identified in the Opposed Application, to cause confusion, to cause mistake, or to deceive, and Applicant's mark is thus unregistrable under § 2(d) of the United States Trademark Act, 15 U.S.C. § 1052(d).

12. Opposer will be damaged by registration of the mark shown in the Opposed Application because such registration will give Applicant prima facie evidence of ownership of and the exclusive right to use a mark that is confusingly similar to Opposer's previously-used and not-abandoned marks, in derogation of Opposer's rights in its marks.

WHEREFORE, opposer Jack Daniel's Properties, Inc. prays for judgment sustaining this opposition and refusing registration to the mark shown in the Opposed Application.

Please charge the filing fees for this opposition to Deposit Account No. 50-2291 and direct all correspondence and communication in this opposition to the undersigned.

Respectfully submitted,

SEYFARTH SHAW LLP

Dated: January 11, 2016

By: s/ Christopher C. Larkin

Christopher C. Larkin

Attorneys for Opposer

JACK DANIEL'S PROPERTIES, INC.

2029 Century Park East, Suite 3500

Los Angeles, CA 90067-3021

Telephone: (310) 277-7200

Facsimile: (310) 201-5219

EXHIBIT 1

Trademark Status and Document Retrieval (TSDR) APIs are currently experiencing technical difficulties and users may be unable to access the database. The problem is being addressed by staff at the USPTO. We sincerely apologize for any inconvenience this may have caused.

STATUS	DOCUMENTS	MAINTENANCE	Back to Search	Print
Generated on: This page was generated by TSDR on 2016-01-08 17:12:34 EST				
Mark: JACK DANIEL'S		No Image exists for this case.		
US Serial Number: 74575005		Application Filing Date: Sep. 19, 1994		
US Registration Number: 1923981		Registration Date: Oct. 03, 1995		
Register: Principal				
Mark Type: Trademark				
Status: The registration has been renewed.				
Status Date: Nov. 04, 2015				
Publication Date: Jul. 11, 1995				
▲ Mark Information ▼ Expand All				
▲ Related Properties Information				
▼ Goods and Services				
Note: The following symbols indicate that the registrant/owner has amended the goods/services: <ul style="list-style-type: none"> • Brackets [...] indicate deleted goods/services; • Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and • Asterisks *.* identify additional (new) wording in the goods/services. 				
For: whiskey				
International Class(es): 033 - Primary Class		U.S Class(es): 047, 049		
Class Status: ACTIVE				
Basis: 1(a)				
First Use: 1875		Use in Commerce: 1875		
▲ Basis Information (Case Level)				
▼ Current Owner(s) Information				

Owner Name:	JACK DANIEL'S PROPERTIES, INC.		
Owner Address:	4040 CIVIC CENTER DRIVE, STE 528 SAN RAFAEL, CALIFORNIA UNITED STATES 94903		
Legal Entity Type:	CORPORATION	State or Country Where Organized:	DELAWARE
▲ Attorney/Correspondence Information			
▲ Prosecution History			
▲ Maintenance Filings or Post Registration Information			
▲ TM Staff and Location Information			
▲ Assignment Abstract Of Title Information - Click to Load			
▲ Proceedings - Click to Load			

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STATUS	DOCUMENTS	MAINTENANCE	Back to Search	Print
Generated on: This page was generated by TSDR on 2016-01-08 17:14:11 EST				
Mark: GENTLEMAN JACK		No Image exists for this case.		
US Serial Number: 73754322		Application Filing Date: Sep. 23, 1988		
US Registration Number: 1538377		Registration Date: May 09, 1989		
Register: Principal				
Mark Type: Trademark				
Status: The registration has been renewed.				
Status Date: May 28, 2009				
Publication Date: Feb. 14, 1989				
▲ Mark Information ▼ Expand All				
▼ Goods and Services				
Note: The following symbols indicate that the registrant/owner has amended the goods/services: <ul style="list-style-type: none"> • Brackets [...] indicate deleted goods/services; • Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and • Asterisks *..* identify additional (new) wording in the goods/services. 				
For: WHISKY				
International Class(es): 033 - Primary Class		U.S Class(es): 049		
Class Status: ACTIVE				
Basis: 1(a)				
First Use: Jan. 28, 1988		Use in Commerce: Jan. 28, 1988		
▲ Basis Information (Case Level)				
▼ Current Owner(s) Information				
Owner Name: JACK DANIEL DISTILLERY, LEM MOTLOW, PROP, INC.				

Owner Address:	LYNCHBURG, TENNESSEE UNITED STATES 37352		
Legal Entity Type:	CORPORATION	State or Country Where Organized:	DELAWARE
▲ Attorney/Correspondence Information			
▲ Prosecution History			
▲ Maintenance Filings or Post Registration Information			
▲ TM Staff and Location Information			
▲ Assignment Abstract Of Title Information - Click to Load			
▲ Proceedings - Click to Load			

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STATUS	DOCUMENTS	MAINTENANCE	Back to Search	Print
Generated on: This page was generated by TSDR on 2016-01-08 17:15:49 EST				
Mark: JACK		No Image exists for this case.		
US Serial Number: 75463656		Application Filing Date: Apr. 07, 1998		
US Registration Number: 2815221		Registration Date: Feb. 17, 2004		
Register: Principal				
Mark Type: Trademark				
Status: The registration has been renewed.				
Status Date: Feb. 19, 2014				
Publication Date: Jun. 25, 2002		Notice of Allowance Date: Sep. 17, 2002		
▲ Mark Information				▼ Expand All
▼ Goods and Services				
Note: The following symbols indicate that the registrant/owner has amended the goods/services: <ul style="list-style-type: none"> • Brackets [...] indicate deleted goods/services; • Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and • Asterisks *.* identify additional (new) wording in the goods/services. 				
For: alcoholic beverages, namely whiskey				
International Class(es): 033 - Primary Class		U.S Class(es): 047, 049		
Class Status: ACTIVE				
Basis: 1(a)				
First Use: Dec. 31, 1998		Use in Commerce: Dec. 31, 1998		
▲ Basis Information (Case Level)				
▼ Current Owner(s) Information				
Owner Name: JACK DANIEL'S PROPERTIES, INC.				

Owner Address:	4040 CIVIC CENTER DRIVE, SUITE 528 SAN RAFAEL, CALIFORNIA UNITED STATES 94903		
Legal Entity Type:	CORPORATION	State or Country Where Organized:	DELAWARE
▲ Attorney/Correspondence Information			
▲ Prosecution History			
▲ Maintenance Filings or Post Registration Information			
▲ TM Staff and Location Information			
▲ Assignment Abstract Of Title Information - Click to Load			
▲ Proceedings - Click to Load			

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STATUS	DOCUMENTS	MAINTENANCE	Back to Search	Print
Generated on: This page was generated by TSDR on 2016-01-08 17:16:23 EST				
Mark: BLACK JACK		No Image exists for this case.		
US Serial Number: 78231578		Application Filing Date: Mar. 28, 2003		
US Registration Number: 3259938		Registration Date: Jul. 10, 2007		
Register: Principal				
Mark Type: Trademark				
Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.				
Status Date: Jun. 29, 2013				
Publication Date: Apr. 24, 2007				
▲ Mark Information ▼ Expand All				
▼ Goods and Services				
Note: The following symbols indicate that the registrant/owner has amended the goods/services: <ul style="list-style-type: none"> • Brackets [...] indicate deleted goods/services; • Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and • Asterisks *..* identify additional (new) wording in the goods/services. 				
For: Alcoholic beverages, namely, pre-mixed alcoholic cocktails				
International Class(es): 033 - Primary Class		U.S Class(es): 047, 049		
Class Status: ACTIVE				
Basis: 1(a)				
First Use: Apr. 19, 2004		Use in Commerce: Apr. 19, 2004		
▲ Basis Information (Case Level)				
▼ Current Owner(s) Information				
Owner Name: Jack Daniel's Properties, Inc.				

Owner Address: 4040 Civic Center Drive, Suite 528 San Rafael, CALIFORNIA UNITED STATES 94903			
Legal Entity Type:	CORPORATION	State or Country Where Organized:	DELAWARE
▲ Attorney/Correspondence Information			
▲ Prosecution History			
▲ Maintenance Filings or Post Registration Information			
▲ TM Staff and Location Information			
▲ Assignment Abstract Of Title Information - Click to Load			
▲ Proceedings - Click to Load			

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STATUS	DOCUMENTS	MAINTENANCE	Back to Search	Print
Generated on: This page was generated by TSDR on 2016-01-08 17:16:56 EST				
Mark: WINTER JACK		WINTER JACK		
US Serial Number:	85728354	Application Filing Date:	Sep. 13, 2012	
US Registration Number:	4404637	Registration Date:	Sep. 17, 2013	
Filed as TEAS Plus:	Yes	Currently TEAS Plus:	Yes	
Register:	Principal			
Mark Type:	Trademark			
Status:	Registered. The registration date is used to determine when post-registration maintenance documents are due.			
Status Date:	Sep. 17, 2013			
Publication Date:	Nov. 27, 2012	Notice of Allowance Date:	Jan. 22, 2013	
▲ Mark Information ▼ Expand All				
▼ Goods and Services				
Note: The following symbols indicate that the registrant/owner has amended the goods/services: <ul style="list-style-type: none"> • Brackets [...] indicate deleted goods/services; • Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and • Asterisks *..* identify additional (new) wording in the goods/services. 				
For:	Alcoholic beverages, namely, pre-mixed alcoholic cocktails			
International Class(es):	033 - Primary Class	U.S Class(es):	047, 049	
Class Status:	ACTIVE			
Basis:	1(a)			
First Use:	Oct. 31, 2012	Use in Commerce:	Oct. 31, 2012	
▲ Basis Information (Case Level)				
▼ Current Owner(s) Information				
Owner Name:	Jack Daniel's Properties, Inc.			
Owner Address:	4040 Civic Center Drive, Suite 528 San Rafael, CALIFORNIA UNITED STATES 94903			

Legal Entity Type:	CORPORATION	State or Country Where Organized:	DELAWARE
▲ Attorney/Correspondence Information			
▲ Prosecution History			
▲ TM Staff and Location Information			
▲ Assignment Abstract Of Title Information - Click to Load			
▲ Proceedings - Click to Load			

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2016, I served the foregoing Notice of Opposition on the applicant by mailing a copy thereof by First Class Mail, postage prepaid, addressed to applicant's counsel of record at applicant's counsel's correspondence address of record in the records of the Patent and Trademark Office as follows:

Angie Gregory, Esq.
2416 E. 37th Street North
Wichita, KS 67219-3538

s/ Eleanor Elko

Eleanor Elko